THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 28690 OF 1996

Date: 22.1.2007

Between:

Ch.V.Subramanyam

… Petitioner

and

1. The Secretary, A.P.S.E.B
Hyderabad and 2 others … Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 28690 OF 1996

ORDER:

The qualification prescribed for appointment to the post of Junior Accounts Officer, in the erstwhile A.P.S.E.B, was a pass in Higher Accountancy Test or the Departmental Test or graduation in commerce. A temporary vacancy arose in the post of Junior Accounts Officer on 4.11.1994 as the regular incumbent had gone on deputation. Even prior thereto the respondent Board had taken steps to fill up the vacancy and intimation in this regard was sent to all UDCs on 26.9.1994 giving them 15 days time to submit their willingness.

According to the petitioner he appeared for the B.Com. examination in May 1994, the results were declared in July/August 1994 and, since he was declared to have failed, he sought re-valuation. On revaluation, the petitioner was informed on 29.10.1994 that he had passed in the B.Com. examination. Petitioner submitted a representation on 1.11.1994 despite which the Departmental Promotion Committee (DPC), which met on 9.11.1994, selected one Sri R.Satyanarayana Rao, (who was junior to the petitioner), and appointed him in the temporary vacancy of Junior Accounts Officer. The petitioner was subsequently appointed in the temporary vacancy on 31.3.1995. Both Sri R.Satyanarayana Rao and the petitioner were regularized from the date of their initial temporary appointment as Junior Accounts Officer.

The grievance of the petitioner is that since he was senior to Sri R.Satyanarayana, and should have been appointed as a Junior Accounts Officer on 4.11.1994 instead of on 31.3.1995, he should be given the benefit of seniority over Sri R.Satyanarayana and all other consequential benefits for this period of five months.

Sri Abhinand Kumar Shavili, learned counsel for the petitioner, would submit that since the petitioner possessed the requisite qualification for appointment as a Junior Accounts Officer even prior to the date on which the DPC met, the action of the respondents in not considering his case for appointment as a Junior Accounts Officer is arbitrary and illegal.

While this submission of Sri Abhinand Kumar Shavili, learned counsel for the petitioner, undoubtedly has considerable force since the petitioner possessed the qualification prescribed for being appointed as Junior Accounts Officer even prior to the date on which the DPC met on 9.11.1994, the fact, however, remains that there was only one vacancy, that too a temporary vacancy in the post of Junior Accounts Officer on 4.11.1994. Either the petitioner or R.Sri Satyanarayana Rao, and not both, could have been appointed to the said post. Since Sri R.Satyanarayana Rao is not arrayed as a respondent in the writ petition, granting the relief sought for to the petitioner would, in effect, amount to setting aside the appointment of Sri R.Satyanarayana Rao in the temporary vacancy of Junior Accounts Officer. On the sole ground that Sri R.Satyanarayana Rao has not been arrayed as a respondent in the writ petition the relief sought for cannot be granted.

Sri Abhinand Kumar Shavili, learned counsel for the petitioner, would submit that since the petitioner has retired from

service giving him the benefit of promotion from 9.11.1994 would only result in his getting the benefit of seniority of five months prior to his actual date of promotion on 31.3.1995. I consider it appropriate to permit the petitioner herein to submit a detailed representation in this regard to the 1st respondent. Sri Abhinand Kumar Shavili, learned counsel for the petitioner, would submit that the petitioner shall submit a representation to the 1st respondent within four weeks from the date of receipt of a copy of this order. The 1st respondent shall, within four months from the date of receipt of such a representation, consider the petitioner's request in accordance with law, pass appropriate orders thereon and communicate the same to the petitioner.

The writ petition is disposed of accordingly. No costs.

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22-1-2007

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